

## **AFFIDAVIT OF ZION HADAD**

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I, ZION HADAD, am the sole inventor and the applicant for a United States Patent Application that was filed with the United States Patent Office on July 24, 2000 and assigned Serial Number 09/624,237. I am not a patent attorney or a patent agent. Furthermore, as allowed under United States law, I filed and have been prosecuting the instant application in a pro se manner, without the help or aid of an attorney, patent attorney or patent agent. The application is presently in a state of abandonment. In June of this year, I hired a US patent attorney to examine the status of this case. Through this attorney, a petition to revive the application was filed on August 13, 2008 under 37 CFR 1.137(b) for unintentional abandonment. This petition has been dismissed by the United States Patent Office. I am further attempting to revive this case under 37 CFR 1.137(b) on the basis that the application was abandoned unintentionally. The purpose of this Affidavit is to identify the historical facts that have resulted in the present condition of the application and to provide a specific showing as to how the entire delay in was unintentional.

### **Background**

Based on an examination of the file history obtained from the PAIR system, my attorney has indicated that the following facts appear to be true:

On September 24, 2004, it is apparent that the United States Patent Office mailed an official communication to my address at 48 Haalmogim Street, Rishon Lezion, Israel. This official communication was in the form of a restriction requirement. A response to this official communication was not prepared or filed with the United States Patent Office.

On June 28, 2005, the United States Patent Office mailed a Notice of Abandonment to the same address.

On September 15, 2005 I prepared and filed a Petition to Revive the abandoned application under 37 C.F.R 1.137(b) based on the unintentional abandonment standard. This petition included a request for the United States Patent Office to send me a copy of the September 24, 2004 official communication.

On September 26, 2005, apparently the United States Patent Office mailed an official communication to my address thereby dismissing the Petition to Revive stating that the petition failed to include a proper response to the September 24, 2004 official communication. There was no response filed with regards to this dismissal.

In June of 2008, I hired Gregory Scott Smith, a registered United States Patent Attorney having Registration Number 40,819 to review all of my files and pending applications. In reviewing the instant application, Mr. Smith was not able to verify the status of the application because the file was incomplete and the documents were not available on the United States Patent Office's PAIR system. On July 21, 2008, Mr. Smith prepared and filed a revocation and appointment of a power of attorney form under my signature thereby appointing Mr. Smith and his law firm as the attorney of record.

On July 28, 2008 the United States Patent Office mailed a Notice of Acceptance of Power of Attorney.

Subsequent to this date, Mr. Smith was able to obtain a copy of the file history for this case and conducted a thorough review. It was at this time it was discovered that the United States Patent Office had dismissed the Petition to Revive that I filed on September 15, 2005.

On August 13, 2008, Mr. Smith prepared and filed a Petition to Revive under 37 C.F.R 1.137(b) based on the unintentional abandonment standard.

On August 28, 2008 the United States Patent Office mailed an official communication thereby dismissing the petition to revive. The Office reached this decision by alleging that the entire delay has not been shown to the satisfaction of the Director to be unintentional.

### **My Delay in Response was Unintentional**

I hereby state that it was not my intention to abandon this application and, further, that the entire delay in responding to the Office's dismissal of my September 15, 2005 Petition to Revive was unintentional. The following facts known to me and sworn to be true clearly show that this delay was unintentional.

Although the file history now available in PAIR indicates that the Office mailed an official communication on September 24, 2004, I never received this official communication. Because I never received the official communication, I could not respond to it. As a result, this application became abandoned.

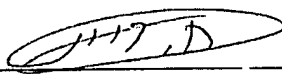
The first communication I received from the United States Patent Office was the Notice of Abandonment. At this time I conducted research to learn how to respond to this communication. Once I concluded my research, I prepared and filed the September 15, 2005 petition in a timely manner. In this petition I specifically mentioned that I did not receive the September 24, 2004 official communication and requested the Office to provide me with a copy of this official communication.

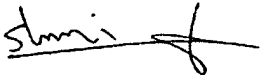
Although the file history on PAIR indicates that a dismissal to this September 15, 2005 petition was mailed by the Office on September 26, 2005, I never received this dismissal. Furthermore, I never received the requested copy of the September 24, 2004 official communication. It was not until I hired Mr. Smith that I discovered that my petition to revive


had been dismissed and that the application was still abandoned. As soon as this was discovered, another petition was filed. The delay was unintentional because I did not receive the dismissal notice and I was not aware that there was a further response due on my part.

Furthermore, I believe this delay was reasonable on my part. It took the Office over 4 years to initially respond to my filing of the patent application. As such, I believe that it was reasonable for a non-patent attorney to not have questioned the fact that in just over 2 years, the Office had not responded to my Petition to Revive.

Therefore, I state that the entire delay from the time the Office mailed the dismissal of my petition to the time that Mr. Smith filed the current petition was unintentional. Had I received the Office's dismissal or the requested copy of the September 24, 2004 official communication, I would have responded. However, having not received either, I could not have responded and was not aware that a response was due.

  
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Zion Hadad, applicant                      Date      10/26/08

  
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Witness 1                                      Date      10/26/08

  
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Witness 2                                      Date      10/26/08